

House Study Bill 535 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

A BILL FOR

1 An Act relating to standard valuation and standard forfeiture
2 provisions for life insurance policies or contracts and
3 including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 508.36, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 01. *Definitions.*

4 *a.* As used in this section, unless the context otherwise
5 requires:

6 (1) "*Accident and health insurance*" means policies
7 or contracts that incorporate morbidity risk and provide
8 protection against economic loss resulting from accident,
9 sickness, or medical conditions and as may be specified in the
10 valuation manual.

11 (2) "*Appointed actuary*" means a qualified actuary who is
12 appointed in accordance with the valuation manual to prepare
13 the actuarial opinion required in subsection 2, paragraph "*a*".

14 (3) "*Company*" means an entity which has done any of the
15 following:

16 (a) Written, issued, or reinsured life insurance policies
17 or contracts, accident and health insurance policies or
18 contracts, or deposit-type policies or contracts in this state
19 and has at least one such policy or contract in force or on
20 claim.

21 (b) Written, issued, or reinsured life insurance policies
22 or contracts, accident and health insurance policies or
23 contracts, or deposit-type policies or contracts in any state
24 and is required to hold a certificate of authority to write
25 life insurance, accident and health insurance, or deposit-type
26 policies or contracts in any state and is required to hold a
27 certificate of authority to write life insurance, accident and
28 health insurance, or deposit-type policies or contracts in this
29 state.

30 (4) "*Deposit-type policy or contract*" means policies or
31 contracts that do not incorporate mortality or morbidity risks
32 and such policies or contracts as may be specified in the
33 valuation manual.

34 (5) "*Life insurance*" means policies or contracts that
35 incorporate mortality risk, including annuity and pure

1 endowment contracts, and such policies or contracts as may be
2 specified in the valuation manual.

3 (6) "*NAIC*" means the national association of insurance
4 commissioners.

5 (7) "*Operative date of the valuation manual*" means the
6 operative date of the valuation manual as provided in
7 subsection 13.

8 (8) "*Policyholder behavior*" means any action a policyholder,
9 contract holder, or any other person with the right to elect
10 options, such as a certificate holder, may take under a policy
11 or contract subject to this section including but not limited
12 to lapse, withdrawal, transfer, deposit, premium payment, loan,
13 annuitization, or benefit elections prescribed by the policy or
14 contract, but excluding events of mortality or morbidity that
15 result in benefits prescribed in their essential aspects by the
16 terms of the policy or contract.

17 (9) "*Principle-based valuation*" means a reserve valuation
18 that uses one or more methods or one or more assumptions
19 determined by the insurer and that is required to comply with
20 subsection 14 as specified in the valuation manual.

21 (10) "*Qualified actuary*" means an individual who is
22 qualified to sign the applicable statement of actuarial
23 opinion in accordance with the American academy of actuaries
24 qualification standards for actuaries signing such statements
25 and who meets the requirements specified in the valuation
26 manual.

27 (11) "*Tail risk*" means a risk that occurs either where the
28 frequency of low probability events is higher than expected
29 under a normal probability distribution or where there are
30 observed events of very significant size or magnitude.

31 (12) "*Valuation manual*" means the manual of valuation
32 instructions adopted by the NAIC as specified in this section
33 or as subsequently amended.

34 b. This subsection is applicable on or after the operative
35 date of the valuation manual.

1 Sec. 2. Section 508.36, subsection 1, Code 2014, is amended
2 to read as follows:

3 1. *Reserve valuation.*

4 a. Policies and contracts issued prior to operative date of
5 valuation manual.

6 (1) The commissioner shall annually value, or cause to be
7 valued, the reserve liabilities, referred to in this section
8 as reserves, for all outstanding life insurance policies and
9 annuity and pure endowment contracts of every life insurance
10 company doing business in this state, ~~and may certify the~~
11 ~~amount of any such reserves, specifying the mortality table~~
12 ~~or tables, rate or rates of interest, and the net level~~
13 ~~premium method or other methods used in the calculation of~~
14 such reserves issued on or after July 1, 1973, and prior to
15 the operative date of the valuation manual. In calculating
16 the reserves, the commissioner may use group methods and
17 approximate averages for fractions of a year or otherwise. In
18 lieu of the valuation of the reserves required in this section
19 of any foreign or alien company, the commissioner may accept
20 any valuation made, or caused to be made, by the insurance
21 supervisory official of any state or other jurisdiction when
22 such valuation complies with the minimum standard provided
23 for in this section ~~and if the official of such state or~~
24 ~~jurisdiction accepts as sufficient and valid for all legal~~
25 ~~purposes the certificate of valuation of the commissioner when~~
26 ~~such certificate states the valuation to have been made in a~~
27 ~~specified manner according to which the aggregate reserves~~
28 ~~would be at least as large as if they had been computed in the~~
29 ~~manner prescribed by the law of that state or jurisdiction.~~

30 (2) The provisions set forth in subsections 3 through 12
31 shall apply to all policies and contracts, as appropriate,
32 subject to this section that were issued on or after July 1,
33 1973, and prior to the operative date of the valuation manual
34 and the provisions set forth in subsections 13 and 14 shall not
35 apply to any such policies or contracts.

1 (3) The minimum standard for the valuation of policies and
2 contracts issued prior to July 1, 1973, shall be the standard
3 provided by the laws in effect immediately prior to that date.

4 *b. Policies and contracts issued on or after operative date*
5 *of valuation manual.*

6 (1) The commissioner shall annually value, or cause to
7 be valued, the reserve liabilities for all outstanding life
8 insurance policies or contracts, annuity and pure endowment
9 policies or contracts, accident and health insurance policies
10 or contracts, and deposit-type policies or contracts of every
11 company issued on or after the operative date of the valuation
12 manual. In lieu of the valuation of the reserves required
13 of a foreign or alien company, the commissioner may accept
14 a valuation made, or caused to be made, by the insurance
15 supervisory official of any state or other jurisdiction when
16 the valuation complies with the minimum standard provided in
17 this section.

18 (2) The provisions set forth in subsections 13 and 14 shall
19 apply to all policies or contracts issued on or after the
20 operative date of the valuation manual.

21 Sec. 3. Section 508.36, subsection 2, Code 2014, is amended
22 to read as follows:

23 2. *Actuarial opinion of reserves.* ~~This subsection is~~
24 ~~effective January 1, 1996.~~

25 *a. Actuarial opinion of reserves prior to operative date of*
26 *valuation manual.* This paragraph "a" applies to an actuarial
27 opinion of reserves submitted prior to the operative date of
28 the valuation manual.

29 ~~a.~~ (1) General. A life insurance company doing business
30 in this state shall annually submit the written opinion of
31 a qualified actuary as to whether the reserves and related
32 actuarial items held in support of the policies and contracts
33 specified by the commissioner by regulation are computed
34 appropriately, are based on assumptions which satisfy
35 contractual provisions, are consistent with prior reported

1 amounts, and are in compliance with applicable laws of this
2 state. The commissioner shall define by rule the requirements
3 and content of this opinion and add any other items deemed to
4 be necessary.

5 ~~b.~~ (2) *Actuarial analysis of reserves and assets supporting*
6 *such reserves.*

7 ~~{1}~~ (a) Unless exempted by rule, a life insurance company
8 shall also annually include in the opinion required by
9 ~~paragraph "a"~~ subparagraph (1), an opinion of the same qualified
10 actuary as to whether the reserves and related actuarial items
11 held in support of policies and contracts specified by the
12 commissioner by rule, when considered ~~with respect to~~ in light
13 of the assets held by the company ~~associated with respect to~~
14 the reserves and related actuarial items, including, but not
15 limited to, the investment earnings on the assets and the
16 considerations anticipated to be received and retained under
17 the policies and contracts, ~~are sufficient~~ make adequate
18 provision for the company's obligations under the policies and
19 contracts, including but not limited to the benefits under and
20 expenses associated with the policies and contracts.

21 ~~{2}~~ (b) The commissioner may provide by rule for a
22 transition period for establishing any higher reserves which
23 the qualified actuary may deem necessary in order to render the
24 opinion required by this ~~section~~ paragraph "a".

25 ~~c.~~ (3) *Requirements for actuarial analysis opinions subject*
26 *to subparagraph (2).* An opinion required by ~~paragraph "b"~~
27 subparagraph (2) shall be governed by the following provisions:

28 ~~{1}~~ (a) A memorandum, in form and substance acceptable to
29 the commissioner as specified by rule, shall be prepared to
30 support each actuarial opinion.

31 ~~{2}~~ (b) If the insurance company fails to provide a
32 supporting memorandum at the request of the commissioner within
33 a period specified by rule or the commissioner determines that
34 the supporting memorandum provided by the insurance company
35 fails to meet the standards prescribed by the rules or is

1 otherwise unacceptable to the commissioner, the commissioner
2 may engage a qualified actuary at the expense of the company to
3 review the opinion and the basis for the opinion and prepare
4 such supporting memorandum as is required by the commissioner.

5 ~~d-~~ (4) *Requirement for all opinions subject to this*
6 *paragraph.* An opinion required under this ~~section~~ paragraph "a"
7 is governed by the following provisions:

8 {1} (a) The opinion shall be submitted with the annual
9 statement reflecting the valuation of such reserve liabilities
10 for each year ending on or after December 31, 1995.

11 {2} (b) The opinion shall apply to all business in force,
12 including individual and group health insurance plans, in form
13 and substance acceptable to the commissioner as specified by
14 rule.

15 {3} (c) The opinion shall be based on standards adopted
16 from time to time by the actuarial standards board and on such
17 additional standards as the commissioner may by rule prescribe.

18 {4} (d) In the case of an opinion required to be submitted
19 by a foreign or alien company, the commissioner may accept the
20 opinion filed by that company with the insurance supervisory
21 official of another state if the commissioner determines that
22 the opinion reasonably meets the requirements applicable to a
23 company domiciled in this state.

24 {5} (e) For the purposes of this ~~section~~ paragraph "a",
25 "*qualified actuary*" means a member in good standing of the
26 American academy of actuaries who meets the requirements of the
27 commissioner as specified by rule.

28 {6} (f) Except in cases of fraud or willful misconduct,
29 a qualified actuary is not liable for damages to any person,
30 other than to the insurance company and the commissioner, for
31 any act, error, omission, decision, or conduct with respect to
32 the actuary's opinion.

33 {7} (g) Disciplinary action which may be taken by the
34 commissioner against the company or the qualified actuary shall
35 be defined in rules adopted by the commissioner.

1 ~~(8)~~—(a) (h) (i) Any memorandum in support of the
2 opinion, and any other material provided by the company to
3 the commissioner in connection with the opinion, shall be
4 kept confidential by the commissioner and shall not be made
5 public and shall not be subject to subpoena, other than for the
6 purpose of defending an action seeking damages from any person
7 by reason of any action required by this ~~section~~ paragraph "a"
8 or by rules adopted pursuant to this ~~section~~ paragraph "a".
9 Notwithstanding this subparagraph division, the memorandum or
10 other material may be released by the commissioner if either of
11 the following applies:

12 ~~(i)~~ (A) The commissioner receives the written consent of
13 the company with which the opinion is associated.

14 ~~(ii)~~ (B) The American academy of actuaries requests that
15 the memorandum or other material is required for the purpose
16 of professional disciplinary proceedings and setting forth
17 procedures satisfactory to the commissioner for preserving the
18 confidentiality of the memorandum or other material.

19 ~~(b)~~ (ii) Once any portion of the confidential memorandum
20 is cited by the company in its marketing, is cited before any
21 governmental agency other than a state insurance department, or
22 is released by the company to the news media, all portions of
23 the confidential memorandum are no longer confidential.

24 *b. Actuarial opinion of reserves on or after operative date*
25 *of valuation manual. This paragraph "b" applies to an actuarial*
26 *opinion of reserves submitted on or after the operative date*
27 *of the valuation manual.*

28 (1) *General.* Every company with outstanding life insurance
29 policies or contracts, accident and health insurance policies
30 or contracts, or deposit-type policies or contracts in
31 this state and subject to regulation by the commissioner
32 shall annually submit the opinion of the appointed actuary
33 as to whether the reserves and related actuarial items
34 held in support of the policies and contracts are computed
35 appropriately, are based on assumptions that satisfy

1 contractual provisions, are consistent with prior reported
2 amounts, and comply with applicable laws of this state. The
3 valuation manual shall prescribe the specifics of this opinion
4 including any items deemed to be necessary to its scope.

5 (2) *Actuarial analysis of reserves and assets supporting*
6 *reserves.* Every company with outstanding life insurance
7 policies or contracts, accident and health insurance policies
8 or contracts, or deposit-type policies or contracts in this
9 state and subject to regulation by the commissioner, except as
10 exempted in the valuation manual, shall annually include in
11 the opinion required by subparagraph (1), an opinion of the
12 same appointed actuary as to whether the reserves and related
13 actuarial items held in support of the policies and contracts
14 specified in the valuation manual, when considered in light of
15 the assets held by the company with respect to the reserves
16 and related actuarial items, including but not limited to
17 the investment earnings on the assets and the considerations
18 anticipated to be received and retained under the policies
19 and contracts, make adequate provision for the company's
20 obligations under the policies and contracts, including but not
21 limited to the benefits under and expenses associated with the
22 policies and contracts.

23 (3) *Requirements for opinions subject to subparagraph*
24 *(2).* An opinion required by subparagraph (2) shall be governed
25 by the following provisions:

26 (a) A memorandum, in form and substance as specified in the
27 valuation manual, and that is acceptable to the commissioner,
28 shall be prepared to support each actuarial opinion.

29 (b) If the company fails to provide a supporting memorandum
30 at the request of the commissioner within a period specified
31 in the valuation manual or the commissioner determines that
32 the supporting memorandum provided by the company fails to
33 meet the standards prescribed by the valuation manual or is
34 otherwise unacceptable to the commissioner, the commissioner
35 may engage a qualified actuary at the expense of the company to

1 review the opinion and the basis for the opinion and prepare
2 the supporting memorandum required by the commissioner.

3 (4) Requirements for all opinions subject to this
4 paragraph. Every opinion subject to this paragraph "b" shall be
5 governed by the following provisions:

6 (a) The opinion shall be in form and substance as specified
7 in the valuation manual and acceptable to the commissioner.

8 (b) The opinion shall be submitted with the annual statement
9 reflecting the valuation of such reserve liabilities for each
10 year ending on or after the operative date of the valuation
11 manual.

12 (c) The opinion shall apply to all policies and contracts
13 subject to subparagraph (2) plus other actuarial liabilities as
14 may be specified in the valuation manual.

15 (d) The opinion shall be based on standards adopted from
16 time to time by the actuarial standards board or its successor,
17 and on such additional standards as may be prescribed in the
18 valuation manual.

19 (e) In the case of an opinion required to be submitted by
20 a foreign or alien company, the commissioner may accept the
21 opinion filed by that company with the insurance supervisory
22 official of another state if the commissioner determines that
23 the opinion reasonably meets the requirements applicable to a
24 company domiciled in this state.

25 (f) Except in cases of fraud or willful misconduct, the
26 appointed actuary shall not be liable for damages to any
27 person, other than the company and the commissioner, for any
28 act, error, omission, decision, or conduct with respect to the
29 appointed actuary's opinion.

30 (g) Disciplinary action by the commissioner against the
31 company or the appointed actuary shall be defined in rules
32 adopted by the commissioner pursuant to chapter 17A.

33 Sec. 4. Section 508.36, subsection 3, paragraph a,
34 unnumbered paragraph 1, Code 2014, is amended to read as
35 follows:

1 For ~~all~~ ordinary policies of life insurance issued on the
2 standard basis, excluding any disability and accidental death
3 benefits in the policies, the following:

4 Sec. 5. Section 508.36, subsection 3, paragraph a,
5 subparagraph (2), Code 2014, is amended to read as follows:

6 (2) The commissioners 1958 standard ordinary mortality
7 table for such policies issued on or after the operative date
8 of section 508.37, subsection 5, paragraph ~~"c"~~ "a", and prior to
9 the operative date of section 508.37, subsection 5, paragraph
10 "c", provided that for any category of policies issued on female
11 risks, all modified net premiums and present values referred to
12 in this section may be calculated according to an age not more
13 than six years younger than the actual age of the insured.

14 Sec. 6. Section 508.36, subsection 6, paragraph a,
15 unnumbered paragraph 1, Code 2014, is amended to read as
16 follows:

17 Except as otherwise provided in subsections 7, 10, and ~~12~~
18 11, reserves calculated according to the commissioner's reserve
19 valuation method, for the life insurance and endowment benefits
20 of policies providing for a uniform amount of insurance and
21 requiring the payment of uniform premiums, shall be the excess,
22 if any, of the present value, at the date of valuation, of
23 future guaranteed benefits provided for by such policies, over
24 the present value, at the date of valuation, of any future
25 modified net premiums for such policies. The modified net
26 premiums for such policy is the uniform percentage of the
27 respective contract premiums for the benefits such that the
28 present value, at the date of issue of the policy, of all
29 modified net premiums shall be equal to the sum of the present
30 value, at the date of valuation, of such benefits provided
31 for by the policy and the excess of the amount determined in
32 subparagraph (1) over the amount determined in subparagraph
33 (2), as follows:

34 Sec. 7. Section 508.36, subsection 10, paragraph a, Code
35 2014, is amended to read as follows:

1 a. If in any contract year the gross premium charged by a
 2 ~~life insurance~~ company on a policy or contract is less than the
 3 valuation net premium for the policy or contract, as calculated
 4 by the method used in calculating the reserve for such policy
 5 or contract but using the minimum valuation standards of
 6 mortality and rate of interest, the minimum reserve required
 7 for such policy or contract is the greater of either the
 8 reserve calculated according to the mortality table, rate of
 9 interest, and method actually used for such policy or contract,
 10 or the reserve calculated by the method actually used for such
 11 policy or contract but using the minimum valuation standards
 12 of mortality and rate of interest and replacing the valuation
 13 net premium by the actual gross premium in each contract year
 14 for which the valuation net premium exceeds the actual gross
 15 premium. The minimum valuation standards of mortality and rate
 16 of interest referred to in this section are those standards
 17 established in subsections 4 and 5.

18 Sec. 8. Section 508.36, subsection 12, Code 2014, is amended
 19 to read as follows:

20 12. *Minimum standards for accident and health ~~(disability,~~
 21 ~~accident, and sickness)~~ plans insurance policies or
 22 contracts. The commissioner shall adopt rules containing
 23 ~~the minimum standards applicable to the valuation of health,~~
 24 ~~disability, and sickness and accident plans.~~ For accident and
 25 health insurance policies or contracts issued on or after the
 26 operative date of the valuation manual, the standard prescribed
 27 in the valuation manual is the minimum standard of valuation
 28 required under subsection 1, paragraph "b". For health,
 29 disability, and sickness and accident insurance policies or
 30 contracts issued on or after July 1, 1973, and prior to the
 31 operative date of the valuation manual, the minimum standard of
 32 valuation is the standard adopted by the commissioner by rule.*

33 Sec. 9. Section 508.36, Code 2014, is amended by adding the
 34 following new subsections:

35 NEW SUBSECTION. 13. *Valuation manual for policies or*

1 *contracts issued on or after operative date of valuation manual.*

2 *a.* For policies or contracts issued on or after the
3 operative date of the valuation manual, the standard prescribed
4 in the valuation manual is the minimum standard of valuation
5 required under subsection 1, paragraph "b", except as provided
6 under paragraph "e" or "g" of this subsection.

7 *b.* The operative date of the valuation manual is January
8 1 of the first calendar year following the first July 1 as of
9 which all of the following have occurred:

10 (1) The valuation manual has been adopted by the NAIC
11 by an affirmative vote of at least forty-two members, or
12 three-fourths of the members voting, whichever is greater.

13 (2) The standard valuation law, as amended by the NAIC in
14 2009, or legislation including substantially similar terms and
15 provisions, has been enacted by states representing greater
16 than seventy-five percent of the direct premiums written as
17 reported in the following annual statements submitted for 2008:

18 (a) Life, accident, and health insurance annual statements.

19 (b) Health insurance annual statements.

20 (c) Fraternal benefit society annual statements.

21 (3) The standard valuation law, as amended by the NAIC in
22 2009, or legislation including substantially similar terms
23 and provisions, has been enacted by at least forty-two of the
24 following fifty-five jurisdictions: the fifty states of the
25 United States, American Samoa, the American Virgin Islands, the
26 District of Columbia, Guam, and Puerto Rico.

27 *c.* Unless a change in the valuation manual specifies a
28 later effective date, changes to the valuation manual shall
29 be effective on January 1 following the date when all of the
30 following have occurred:

31 (1) The changes to the valuation manual have been adopted by
32 the NAIC by an affirmative vote representing:

33 (a) At least three-fourths of the members of the NAIC
34 voting, but not less than a majority of the total membership.

35 (b) Members of the NAIC representing jurisdictions totaling

1 greater than seventy-five percent of the direct premiums
2 written as reported in the following annual statements most
3 recently available prior to the vote in subparagraph division
4 (a):

- 5 (i) Life, accident, and health insurance annual statements.
- 6 (ii) Health insurance annual statements.
- 7 (iii) Fraternal benefit society annual statements.

8 d. The valuation manual shall specify all of the following:

9 (1) Minimum valuation standards for and definitions of
10 the policies or contracts subject to subsection 1, paragraph
11 "b". Such minimum valuation standards shall include all of the
12 following:

13 (a) The commissioner's reserve valuation method for life
14 insurance contracts, other than annuity contracts, subject to
15 subsection 1, paragraph "b".

16 (b) The commissioner's annuity reserve valuation method for
17 annuity contracts subject to subsection 1, paragraph "b".

18 (c) Minimum reserves for all other policies of contracts
19 subject to subsection 1, paragraph "b".

20 (2) Which policies or contracts or types of policies or
21 contracts are subject to the requirements of a principle-based
22 valuation in subsection 14, paragraph "a", and the minimum
23 valuation standards consistent with those requirements.

24 (3) For policies and contracts subject to a principle-based
25 valuation under subsection 14, specify all of the following:

26 (a) Requirements for the format of reports to the
27 commissioner under subsection 14 which shall include
28 information necessary to determine if the valuation is
29 appropriate and in compliance with this section.

30 (b) Assumptions that are prescribed for risks over which the
31 company does not have significant control or influence.

32 (c) Procedures for corporate governance and oversight of
33 the actuarial function, and a process for appropriate waiver or
34 modification of such procedures.

35 (4) For policies or contracts not subject to a

1 principle-based valuation under subsection 14, the minimum
2 valuation standard shall do either of the following:

3 (a) Be consistent with the minimum standard of valuation
4 prior to the operative date of the valuation manual.

5 (b) Develop reserves that quantify the benefits and
6 guarantees, and the funding, associated with the policies or
7 contracts and their risks at a level of conservatism that
8 reflects conditions that include unfavorable events that have a
9 reasonable probability of occurring.

10 (5) Other requirements, including but not limited to
11 those relating to reserve methods, models for measuring
12 risk, generation of economic scenarios, assumptions, margins,
13 use of company experience, risk measurement, disclosure,
14 certifications, reports, actuarial opinions and memorandums,
15 transition rules, and internal controls.

16 (6) The data and form of the data required under subsection
17 15, to whom the data must be submitted, and other specified
18 requirements, including data analyses and reporting of
19 analyses.

20 e. In the absence of a specific valuation requirement or
21 if a specific valuation requirement in the valuation manual
22 is not, in the opinion of the commissioner, in compliance
23 with this subsection, then the company shall, with respect to
24 such requirements, comply with minimum valuation standards
25 prescribed by the commissioner by rule.

26 f. The commissioner may engage a qualified actuary, at the
27 expense of the company, to perform an actuarial examination of
28 the company and opine on the appropriateness of any reserve
29 assumption or method used by the company, or to review and
30 opine on a company's compliance with any requirements set forth
31 in this section. The commissioner may rely upon the opinion,
32 regarding provisions contained in this section, of a qualified
33 actuary engaged by the commissioner of another state, district,
34 or territory of the United States. As used in this paragraph,
35 "engage" includes employment of and contracting with a qualified

1 actuary.

2 *g.* The commissioner may require a company to change any
3 assumption or method that in the opinion of the commissioner
4 is necessary in order to comply with the requirements of the
5 valuation manual or this section and the company shall adjust
6 the reserves as required by the commissioner. The commissioner
7 may take other disciplinary action as authorized pursuant to
8 section 505.8.

9 NEW SUBSECTION. 14. *Requirements of principle-based*
10 *valuation.*

11 *a.* A company shall establish reserves using a
12 principle-based valuation that meets all of the following
13 conditions for policies or contracts as specified in the
14 valuation manual:

15 (1) Quantifies the benefits and guarantees, and the
16 funding, associated with the policies or contracts and the
17 risks of the policies or contracts at a level of conservatism
18 that reflects conditions that include unfavorable events that
19 have a reasonable probability of occurring during the lifetime
20 of the policies or contracts. For policies or contracts with
21 a significant tail risk, the valuation reflects conditions
22 appropriately adverse to quantify the tail risk.

23 (2) Incorporates assumptions, risk analysis methods, and
24 financial models and management techniques that are consistent
25 with, but not necessarily identical to, those utilized
26 within the company's overall risk assessment process, while
27 recognizing potential differences in financial reporting
28 structures and any prescribed assumptions or methods.

29 (3) Incorporates assumptions that are derived in one of the
30 following manners:

31 (a) The assumption is prescribed in the valuation manual.

32 (b) For assumptions that are not prescribed in the valuation
33 manual, the assumptions shall meet either of the following
34 requirements:

35 (i) Be established utilizing the company's available

1 experience, to the extent that the experience is relevant and
2 statistically credible.

3 (ii) To the extent that company data is not available,
4 relevant, or statistically credible, be established utilizing
5 other relevant, statistically credible experience.

6 (4) Provides margins for uncertainty including adverse
7 deviation and estimation error, such that the greater the
8 uncertainty the larger the margin and resulting reserve.

9 b. A company using a principle-based valuation for one
10 or more policies or contracts subject to this subsection
11 as specified in the valuation manual shall do all of the
12 following:

13 (1) Establish procedures for corporate governance and
14 oversight of the actuarial valuation function consistent with
15 those described in the valuation manual.

16 (2) Provide to the commissioner and the board of directors
17 an annual certification of the effectiveness of the company's
18 internal controls with respect to the principle-based
19 valuation. Such controls shall be designed to assure that
20 all material risks inherent in the liabilities and associated
21 assets subject to such valuation are included in the valuation,
22 and that the valuation is made in accordance with the valuation
23 manual. The certification shall be based on the internal
24 controls in place as of the end of the preceding calendar year.

25 (3) Develop, and file with the commissioner upon request, a
26 principle-based valuation report that complies with standards
27 prescribed in the valuation manual.

28 c. A principle-based valuation may include a prescribed
29 formulaic reserve component.

30 NEW SUBSECTION. 15. *Experience reporting for policies*
31 *or contracts in force on or after operative date of valuation*
32 *manual.* A company shall submit mortality, morbidity,
33 policyholder behavior, or expense experience and other data as
34 prescribed in the valuation manual.

35 NEW SUBSECTION. 16. *Confidentiality.*

1 *a. Definition.* For purposes of this subsection,
2 "*confidential information*" means all of the following:

3 (1) A memorandum in support of an opinion submitted
4 under subsection 2 and any other documents, materials, or
5 other information, including but not limited to all working
6 papers, and copies thereof, created, produced, obtained by, or
7 disclosed to the commissioner or any other person in connection
8 with the memorandum.

9 (2) All documents, materials, or other information,
10 including but not limited to all working papers, and copies
11 thereof, created, produced, obtained by, or disclosed
12 to the commissioner or any other person in the course of
13 an examination made under subsection 13, paragraph "f";
14 provided, however, that if an examination report or other
15 materials prepared in connection with an examination made
16 under chapter 507 is not held as private and confidential
17 information under section 507.14, an examination report or
18 other material prepared in connection with an examination made
19 under subsection 13, paragraph "f", shall not be "*confidential*
20 *information*" to the same extent as if such examination report or
21 other material had been prepared under chapter 507.

22 (3) Any reports, documents, materials, or other information
23 developed by a company in support of, or in connection with,
24 an annual certification by the company under subsection 14,
25 paragraph "b", subparagraph (2), evaluating the effectiveness
26 of the company's internal controls with respect to a
27 principle-based valuation and any other documents, materials,
28 or other information, including but not limited to all working
29 papers, and copies thereof, created, produced, obtained by, or
30 disclosed to the commissioner or any other person in connection
31 with such reports, documents, materials, or other information.

32 (4) Any principle-based valuation report developed under
33 subsection 14, paragraph "b", subparagraph (3), and any other
34 documents, materials, or other information, including but not
35 limited to all working papers, and copies thereof, created,

1 produced, obtained by, or disclosed to the commissioner or any
2 other person in connection with such report.

3 (5) Any documents, materials, data, or other information
4 submitted by a company under subsection 15, collectively known
5 as "*experience data*" or "*experience materials*", and any other
6 documents, materials, data, or other information, including
7 but not limited to all working papers, and copies thereof,
8 created or produced in connection with such experience data,
9 in each case that includes any potentially company-identifying
10 or personally identifiable information, that is provided to or
11 obtained by the commissioner, together with any "*experience*
12 *data*" or "*experience materials*", and any other documents,
13 materials, data, or other information, including but not
14 limited to all working papers, and copies thereof, created,
15 produced, obtained by, or disclosed to the commissioner or
16 any other person in connection with such experience data or
17 experience materials.

18 *b. Privilege for, and confidentiality of, confidential*
19 *information.*

20 (1) Except as provided in this subsection, a company's
21 confidential information is confidential by law and privileged,
22 and shall not be subject to chapter 22, shall not be subject
23 to subpoena, and shall not be subject to discovery or
24 admissible in evidence in any private civil action; provided,
25 however, that the commissioner is authorized to use the
26 confidential information in the furtherance of any regulatory
27 or legal action brought against the company as a part of the
28 commissioner's official duties.

29 (2) Neither the commissioner nor any person who received
30 confidential information while acting under the authority of
31 the commissioner shall be permitted or required to testify
32 in any private civil action concerning any confidential
33 information.

34 (3) In order to assist in the performance of the
35 commissioner's duties, the commissioner may share confidential

1 information as follows:

2 (a) With other state, federal, or international regulatory
3 agencies and with the NAIC and its affiliates and subsidiaries.

4 (b) In the case of confidential information specified
5 in paragraph "a", subparagraphs (1) and (4) only, with the
6 actuarial board for counseling and discipline or its successor
7 upon request stating that the confidential information
8 is required for the purpose of professional disciplinary
9 proceedings, and with state, federal, and international law
10 enforcement officials.

11 (c) The sharing of confidential information under
12 subparagraph division (a) or (b) requires that the recipient
13 of the confidential information agrees, and has the legal
14 authority to agree to maintain the confidentiality and
15 privileged status of such documents, materials, data, and
16 other information in the same manner and to the same extent as
17 required for the commissioner.

18 (4) The commissioner may receive documents, materials,
19 data, and other information, including otherwise confidential
20 and privileged documents, materials, data, or information, from
21 the NAIC and its affiliates and subsidiaries, from regulatory
22 or law enforcement officials of other foreign or domestic
23 jurisdictions, and from the actuarial board for counseling
24 and discipline, or its successor, and shall maintain as
25 confidential or privileged any documents, materials, data, or
26 other information received with notice or the understanding
27 that it is confidential or privileged under the laws of the
28 jurisdiction that is the source of the documents, materials,
29 data, or other information.

30 (5) The commissioner may enter into agreements governing
31 the sharing and use of information consistent with this
32 paragraph "b".

33 (6) No waiver of any applicable privilege or claim
34 of confidentiality in the confidential information shall
35 occur as a result of disclosure to the commissioner under

1 this subsection or as a result of sharing as authorized in
2 subparagraph (3).

3 (7) A privilege established under the law of any state or
4 jurisdiction that is substantially similar to the privilege
5 established in this paragraph "b" shall be available and
6 enforced in any proceeding in, and in any court of, this state.

7 (8) For the purposes of this subsection, "regulatory
8 agency", "law enforcement agency", and the "NAIC", include but
9 are not limited to their employees, agents, consultants, and
10 contractors.

11 *c. Sharing of confidential information.* Notwithstanding
12 paragraph "b", any confidential information specified in
13 paragraph "b" may be shared as follows:

14 (1) May be subject to subpoena for the purpose of defending
15 an action seeking damages from the appointed actuary submitting
16 the related memorandum in support of an opinion submitted under
17 subsection 2 or a principle-based valuation report developed
18 under subsection 14, paragraph "b", subparagraph (3), by reason
19 of an action required by this section or by rules promulgated
20 under this section.

21 (2) May otherwise be released by the commissioner with the
22 written consent of the company.

23 (3) Once any portion of a memorandum in support of an
24 opinion submitted under subsection 2 or a principle-based
25 valuation report developed under subsection 14, paragraph "b",
26 subparagraph (3), is cited by a company in its marketing or is
27 publicly volunteered to or before a governmental agency other
28 than a state insurance department or is released by the company
29 to the news media, all portions or such memorandum or report
30 shall no longer be confidential information.

31 NEW SUBSECTION. 17. *Single state exemption.*

32 *a.* The commissioner may exempt specific product forms or
33 product lines of a domestic company that is licensed and doing
34 business only in this state from the requirements of subsection
35 13 provided that all of the following have occurred:

1 (1) The commissioner has issued an exemption in writing to
2 the company and has not subsequently revoked the exemption in
3 writing.

4 (2) The company computes reserves using assumptions and
5 methods used prior to the operative date of the valuation
6 manual in addition to any requirements established by the
7 commissioner and promulgated by rule.

8 b. For any company granted an exemption under this
9 subsection, subsections 2 through 12 shall be applicable. With
10 respect to any company applying this exemption, any reference
11 to subsection 13 found in subsections 2 through 12 shall not
12 be applicable.

13 Sec. 10. Section 508.37, Code 2014, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 01. As used in this section, "*operative*
16 *date of the valuation manual*" means the same as provided in
17 section 508.36, subsection 13.

18 Sec. 11. Section 508.37, subsection 6, paragraph h,
19 subparagraph (6), Code 2014, is amended to read as follows:

20 (6) Any For policies issued prior to the operative date
21 of the valuation manual, any commissioners' standard ordinary
22 mortality tables adopted after 1980 by the national association
23 of insurance commissioners and approved by rule adopted by the
24 commissioner for use in determining the minimum nonforfeiture
25 standard may be substituted for the Commissioners 1980 Standard
26 Ordinary Mortality Table with or without Ten-Year Select
27 Mortality Factors or for the Commissioners 1980 Extended Term
28 Insurance Table.

29 Sec. 12. Section 508.37, subsection 6, paragraph h, Code
30 2014, is amended by adding the following new subparagraph:

31 NEW SUBPARAGRAPH. (07) For policies issued on or after the
32 operative date of the valuation manual, the valuation manual
33 shall provide the commissioners' standard mortality table for
34 use in determining the minimum forfeiture standard that may
35 be substituted for the Commissioners' 1980 Standard Ordinary

1 Mortality Table with or without Ten-year Select Mortality
2 Factors or for the Commissioners' 1980 Extended Term Insurance
3 Table. If the commissioner approves by rule the Commissioners'
4 Standard Ordinary Mortality Table adopted by the national
5 association of insurance commissioners for use in determining
6 the minimum nonforfeiture standard for policies or contracts
7 issued on or after the operative date of the valuation manual,
8 then that minimum nonforfeiture standard supersedes the minimum
9 nonforfeiture standard provided by the valuation manual.

10 Sec. 13. Section 508.37, subsection 6, paragraph i, Code
11 2014, is amended to read as follows:

12 *i. The nonforfeiture interest rate is defined as follows:*

13 *(1) The For policies issued prior to the operative date of*
14 *the valuation manual, the nonforfeiture interest rate per annum*
15 *for any policy issued in a particular calendar year shall be*
16 *equal to one hundred twenty-five percent of the calendar year*
17 *statutory valuation interest rate for the policy as defined*
18 *in section 508.36, rounded to the nearest one quarter of one*
19 *percent.*

20 *(2) For policies issued on or after the operative date of*
21 *the valuation manual, the nonforfeiture interest rate per annum*
22 *for any policy issued in a particular calendar year shall be*
23 *provided by the valuation manual.*

24 Sec. 14. APPLICABILITY. This Act applies on and after the
25 operative date of the valuation manual as provided in section
26 508.36, as amended in this Act.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This Act relates to standard valuation and standard
31 forfeiture provisions for life insurance policies or contracts
32 and includes applicability provisions. The bill includes
33 provisions of model acts adopted by the national association
34 of insurance commissioners (NAIC) pertaining to such standard
35 valuations and forfeitures. The bill refers to a valuation

1 manual which is a manual of valuation instructions adopted by
2 the NAIC.

3 Code section 508.36 concerning standard valuations for
4 life insurance policies or contracts is amended to include
5 definitions that are applicable on or after the operative date
6 of the valuation manual. Code section 508.36 is also amended
7 to provide that specified existing valuation standards apply
8 to policies and contracts issued prior to the operative date
9 of the valuation manual and specified new standards apply on
10 or after the operative date of the valuation manual. The bill
11 includes changes to valuation standards pertaining to reserve
12 valuation, actuarial opinions of reserves, computations of
13 minimum standards, and minimum standards for accident and
14 health insurance policies or contracts.

15 New standards are added pertaining to minimum standards for
16 accident and health insurance; use of the valuation manual;
17 requirements of a principle-based valuation; experience
18 reporting for policies or contracts in force or effect after
19 the operative date of the valuation manual; confidentiality
20 of documents, materials, or other information relating to an
21 actuarial opinion of reserves; and single state exemptions of
22 certain product forms or lines of insurance.

23 New Code section 508.36, subsection 13, paragraph "b", sets
24 forth the conditions which must be met before the valuation
25 manual becomes operative. The operative date of the manual
26 will occur on January 1 of the first calendar year following
27 the first July 1 after all of the following events have
28 occurred: (1) the valuation manual has been adopted by
29 the NAIC by an affirmative vote of at least 42 members or
30 three-fourths of the members voting, whichever is greater; (2)
31 the standard valuation law, as amended by the NAIC in 2009,
32 or substantially similar legislation, has been enacted by
33 states representing greater than 75 percent of specified direct
34 premiums written as reported in annual statements for 2008; (3)
35 the standard valuation law, as amended by the NAIC in 2009,

1 or substantially similar legislation, has been enacted by at
2 least 42 of the 55 jurisdictions including the 50 states of the
3 United States, American Samoa, the American Virgin Islands, the
4 District of Columbia, Guam, and Puerto Rico.

5 Code section 508.37 concerning standard forfeiture
6 provisions applicable to life insurance policies or contracts
7 is amended to provide that specified existing standards apply
8 to policies or contracts issued prior to the operative date
9 of the valuation manual and specified new standards apply to
10 policies issued on or after the operative date of the manual.
11 The bill is applicable on and after the operative date of the
12 new NAIC valuation manual.